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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 11, 1999

PETITION OF

GLOBAL NAPs SOUTH, INC.

Case No. PUC980173

For arbitration of unresolved issues  
from interconnection negotiations with  
Bell Atlantic-Virginia, Inc. pursuant to  
§ 252 of the Telecommunications Act of 1996

ORDER

On November 16, 1998, Global NAPs South, Inc. ("GNAPs") filed a petition for arbitration of unresolved issues from interconnection negotiations with Bell Atlantic-Virginia, Inc. ("BA-VA") under § 252(b) of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. § 252(b).

On November 24, 1998, we entered a Preliminary Order, docketing this matter and ordering BA-VA to file a response to the GNAPs petition, and ordering that comments from interested parties be filed on or before December 30, 1998.

On November 25, 1998, GNAPs filed a motion for a hearing to consider its request that BA-VA provide GNAPs interconnection on an interim basis and for expedited treatment of its petition.

On December 11, 1998, BA-VA filed its response to the GNAPs arbitration petition and motion. On December 30, 1998, GNAPs

filed its reply to the response of BA-VA.

By Commission order of January 29, 1999, we determined that there was no need to hold an evidentiary hearing in this proceeding, having found that the issues raised by the parties presented only legal questions; that there were no issues of fact in dispute; and that both parties had waived their requests for a hearing in this matter.<sup>1</sup> The order also provided for the parties to supplement their pleadings filed herein to define or further clarify their positions on the issues raised, and to address how (or if) the United States Supreme Court's recent decision in AT&T Corp. v. Iowa Utilities Board, No. 97-826, 1999 WL 24568 (U.S. Jan. 25 1999), affects the issues before us.

The parties filed their supplemental briefs on February 10, 1999. After the parties filed their supplemental briefs, the Federal Communications Commission ("FCC") issued its ruling on reciprocal compensation.<sup>2</sup> This FCC decision appears to present questions concerning our ability to effectively arbitrate all issues raised by the parties. The Commission believes the Supreme Court's Iowa Utilities Board decision and/or the FCC's reciprocal compensation decision may warrant our consideration of deferral to the FCC for that body to carry out further

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<sup>1</sup>We also denied GNAPs' motion for interconnection on an interim basis.

<sup>2</sup> In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98 and Inter-Carrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68 (Feb. 26, 1999).

arbitration proceedings in this matter. See 47 U.S.C § 252(e)(5).

Because of the issues raised by the Supreme Court's recent decision in Iowa Utilities Board and the FCC's February 26, 1999, ruling on reciprocal compensation, both of which affect the petition for arbitration before us, we are of the opinion that oral argument on the legal issues presented in this proceeding is warranted. At the hearing established herein, counsel should be prepared to address, in addition to the issues raised in the pleadings, whether the Commission should defer this matter to the FCC pursuant to 47 U.S.C. § 252(e)(5).

We will also direct the parties to file, on or before March 19, 1999, a joint matrix which identifies the remaining unresolved issues and the parties' positions. Further, we will permit the parties to file, on or before March 19, 1999, additional briefs addressing how the FCC's February 26, 1999, ruling on reciprocal compensation affects this proceeding. Accordingly,

IT IS THEREFORE ORDERED THAT:

(1) A hearing to receive oral argument before the Commission shall be held on March 25, 1999, at 10:00 a.m. in the Commission's 2<sup>nd</sup> floor courtroom located in the Tyler building, 1300 East Main Street, Richmond, Virginia, for the purpose of receiving oral argument on the legal issues presented in this proceeding.

(2) The parties shall file a joint matrix, on or before March 19, 1999, which identifies the remaining unresolved issues and the parties' positions.

(3) The parties may file, on or before, March 19, 1999, briefs addressing the FCC's February 26, 1999, ruling on reciprocal compensation, describing how that decision affects this proceeding.

(4) This matter is continued generally.